

Before the
Federal Communications Commission
Washington, DC 20554

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JAN 29 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Access Charge)
Reform)

CC Docket No.
96-262

COMMENTS
ALLIANCE FOR PUBLIC TECHNOLOGY

The Alliance for Public Technology (APT)¹, a consumer coalition of 105 public interest organizations and more than 200 individuals, submits these comments in response to the Notice of Proposed Rulemaking in the Matter of Access Charge Reform, Docket No. 96-262.

The Alliance has articulated a vision for universal availability and affordable access by all Americans to an advanced telecommunication infrastructure and the services such a ubiquitous network would enable.² Congress, in passing the Telecommunications Act of 1996, acknowledged essentially the same vision for the country, but did so in the context of developing telecommunication competition and an appropriate transition period.³

¹ The Alliance was founded in 1986 and is a non-profit, tax-exempt membership organization with the charter to foster affordable access by all consumers to advanced telecommunication services. APT is governed by a Board of Directors. A list of the board and their affiliations is included in Attachment A.

² See, *Connecting Each to All*, (1993) and *Principles to Implement the Goal of Advanced Universal Service*, (1995).

³ See, Section 254(b)(2) and Section 706. A principal of universal service is "Access to advanced telecommunications and information services .. in all regions of the Nation." Further, the Commission is directed to promote and monitor the deployment of advanced telecommunication capability to all Americans. Advanced telecommunications capability is defined to be, without regard to a particular transmission media or technology: "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology."

The current proceeding is the third in a regulatory trilogy required by the Act, universal service and interconnection being the other two proceedings. APT has participated and commented in the other two proceedings.⁴ In each instance, we have urged the Commission to adopt policies that would foster investment in and deployment of advanced infrastructures in the local network to enable every home to receive and send over a high-speed, broadband network video, graphic, data and voice telecommunications.

The current proceeding, however, has the potential of being the most important of the three. The regulatory structure established at this time will ultimately decide whether the goals of the Act and of APT will be achievable as Congress intended.

APT will focus these initial comments on the question of reform of the various exchange access fees paid to the current local phone companies, primarily today by long distance companies (IXCs). The most important of these charges from a consumer perspective are the carrier common line charge and the subscriber line charge. Roughly speaking, these are references to the fees used to collect the interstate contribution to the payment of the proverbial "last mile," or the line and associated facilities that are used to connect a customer's home to the local phone company switch and network. There are other facilities that are covered by these access fees, but ultimately they involve the facilities necessary to provide access to and use of the local network by IXCs and other companies that deliver services over the local telephone network.

⁴ See APT's Comments and Reply Comments in the matter of Federal-State Board on Universal Service, CC-Docket No. 96-45 and Comments and Reply Comments in the matter of implementation of local competition provisions in the Telecommunications Act of 1996, CC Docket No. 96-98.

In this filing, since our comments are more general, we will refer to “common facilities,” and by that intend to refer to the full range of local network services involved in providing local access to IXCs and others.

There is much talk about “bottleneck” facilities in the telecommunications field. Initially, this phrase was used predominantly to refer to the current local telephone company and its “lock” on access to homes and businesses in its service territory. Increasingly, however, the term bottleneck is used to refer to the low bandwidth capacity of the local network. Unfortunately, the public telephone network is rapidly becoming a bandwidth bottleneck. Many business users who have access to advanced services to their desktops are unable to communicate to other locations and desktops in remote locations because the public network can’t handle the bandwidth demand at reasonable prices.

APT believes, therefore, that the access charge rules must be designed to accelerate the deployment of facilities to the home that are capable of the high-speed broadband reliable transmission that is essential to advance services at affordable rates.

There is no question that upgrade of the public switched telephone network to a broadband, high-speed, switched digital system to every home would be expensive. It is APT’s view that the one sure way to impede, if not halt, the deployment of a new and advanced infrastructure is to adopt access schemes that place even greater cost responsibility on the residential customer for the cost of the “last mile” (and associated network facilities) than they currently incur.

APT is concerned that access reform not increase the cost of local service or result in new surcharges, such as the subscriber line charge, which make affordability of even current services more difficult for most residential customers. As we move into an environment where

local phone companies are both retailers and wholesalers, it is critical that wholesale customers bear a significant share of the cost of a high bandwidth local infrastructure that will be necessary for the delivery of their products and services.

The Commission expresses a general preference that the current common line charge be changed from a usage based charge to a flat rate charge or a bulk billing system based on some index of level of use by carriers, unrelated to minutes of use. The argument made is that recovery of "fixed" cost on a usage sensitive basis results in "over payment" by some customers (heavy users) and under payment by others (low volume users).

As a general principle, APT does not find objectionable the fact that large commercial users of the network (usually the heaviest of the users) pay a proportionally higher share of the local loop and shared network costs than residential or other low volume users. Nonetheless, APT is not in a position to provide the Commission with studies or data on whether the degree to which such "over payments" may occur or whether they should be adjusted in some way.

However, APT believes that there is a growing relationship between rate or "volume" of use and the cost of local facilities. This is true with respect to bandwidth, whether based on minutes of use or megabytes. Those companies who originate large volumes of traffic on the local network will have their customers using the most bandwidth, whether they are long distance companies, information service providers, credit card validation providers or others.

It is essential that the Commission recognize the changing character of the local network in a digital age. As the local network becomes a high-speed broadband, digital system, it is clear that "overhead" on the system will be imposed by those who place the most traffic onto the system. Rapidly, facilities are being deployed that are designed primarily for digital delivery, and these facilities will be limited in their capacity by bandwidth and use.

Clearly, the twisted pair to one's home is perhaps the most limiting factor in bandwidth, and thus its value and adequacy of purpose varies with levels and types of use.

Further, the architecture of the local network is changing significantly. Therefore, the early concepts of shared facilities versus dedicated facilities must be reexamined. In this respect, it is clear that increasingly local telephone companies are installing digital subscriber loop facilities nearer to the customer premise. What at one time was considered dedicated subscriber lines are now multiplexed shared facilities carrying digital traffic from entire buildings and neighborhoods to local company offices.

APT, therefore, urges the Commission to consider a system that recognizes the shared nature of the local facilities, that recognizes the difference between dedicated analog facilities and shared digital facilities and which promotes the investment and upgrade of the local network in the most affordable way possible.

We believe that such a system will include the following characteristics:

1. Replacement of the old carrier common line and subscriber line charge with a common facilities charge imposed on all those telecommunication carriers who use the local network to deliver services.⁵ We believe such a charge is not in fact a "subsidy" in that it is an economically justified contribution to the cost of the shared ubiquitous facility. To the extent some or all of such a charge is considered a subsidy, it will be explicit and it will be paid by carriers, as required by the Act. Ultimately, it is a charge for the common good of all telephone users and might be viewed as a common good charge.
2. Movement from a minute of use system to a hybrid system that accounts both for level of use (number of ports, customers etc.) and intensity of use (e.g., bandwidth demanded).⁶ Flat rate pricing for residential users of various services is an important

⁵ APT understands this to mean those commercial firms that are offering telecommunication services through any variety of interconnection, whether "interconnection," purchase of "unbundled service elements" or purchasing of more traditional "exchange access." Further, we urge the Commission to consider the possibility of providing exemptions or lower fees to non-commercial providers of public safety, education and health services.

⁶ See NPRM Para 73. The Commission suggests a possible hybrid system for some switching costs. We believe the Commission's attempt to identify non-traffic sensitive costs and traffic sensitive costs may not adequately anticipate the impact of high bandwidth use over otherwise fixed facilities.

means of assuring that core levels of services are available and affordable to the majority of users. Metered service at the extremes, however, can limit abuses and properly identify those users who contribute most to peak pressures on the system. This is true not only of retail users of telephone services, but purchasers of access and related services as well.

APT does not agree with the efforts to limit the cost of access (or interconnection) to marginal costs or, even worse, some future oriented mythical idealized marginal cost. To the extent that local exchange companies over-charge for access, interconnection or unbundled elements there will develop competitors for these services. The 1996 Act in fact encourages the development of facilities based competition. To a large degree, the Commission should be more concerned with predatory low pricing for access rather than excessive charges for access or interconnection.

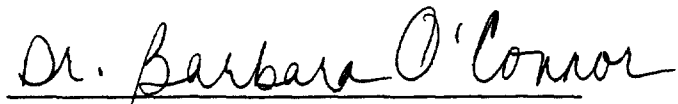
From a consumer perspective, the goal should be to allocate and share as much of the cost of the local network and its upgrade to the broadest number of providers. Every company that uses the local network to deliver its services to customers should be required to pay a reasonable portion of the joint and common costs of that network. Increasingly, as the networks become digital, the entire network should be viewed as a shared facility which is subject to variable or bandwidth sensitive costs.

Finally, we appreciate the Commission's commitment to the idea of a "network of networks." We do not, however, believe that the concept of mandatory interconnection in the statute means that there is no longer a concept of a public interest public switched local network. While the rules are changing, and competition is being introduced, there continues to be an overarching public interest in a ubiquitous local network at affordable rates. In passing the 1996 Act, Congress did not repeal the 1934 Communications Act. The core purpose of the FCC and our communication laws remains to "to make available, so far as possible, to all

people of the United States ... a rapid, efficient, nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges ..."⁷

The existence of a public interest network is not inherently inconsistent with implementation of competition in the local network. Certainly the Act and the Commission's rules are demonstrating that there is going to be significant service competition and appropriate facilities based competition. However, competition isn't the end, it is a means for achieving the new vision of a ubiquitous, affordable, high capacity, switched digital network to every home capable of sending and receiving video, data and voice.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Dr. Barbara O'Connor", written over a horizontal line.

Dr. Barbara O'Connor, Chair

A handwritten signature in cursive script, reading "Gerald Depo", written over a horizontal line.

Gerald Depo, President

January 29, 1997
901 15th Street NW
Washington, DC 20005

⁷ 47 USC 151.